




KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 05-101	PAGE NUMBER 1 of 7
		SUBJECT: RECORDS: Utilization, Confidentiality, Privacy, Security & Dissemination of Information Contained Within Agency Records	
Approved By:  Secretary of Corrections		Original Date Issued:	08-15-82
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Reissued By:  Policy & Procedure Coordinator		The substantive content of this IMPP has been reissued as per the appropriate provisions of IMPP 01-101. The only modifications within the reissue of this document concern technical revisions of a non substantive nature. Date Reissued:	

POLICY

Appropriate and reasonable safeguards shall be implemented to ensure that information contained in agency records is safeguarded from unauthorized access and improper disclosure. (ACO 2-1E-01, 2-1E-06, 2-1E-08, ACI 3-4092, 3-4377, APPFS 3-3101)

Departmental employees and contract employees shall have access to inmate and former inmate records on a need to know basis and only to the extent that such access is necessary for the performance of their assigned duties. Information shall be shared with other criminal justice agencies and units of government, the media and the public consistent with applicable statutes and regulations regarding privacy and confidentiality. (ACO 2-1E-01, 2-1E-06, ACI 3-4377) Appropriate and uniformly determined fees shall be charged for provision of access to, or copies of, records maintained by the Department, including both offender specific and other agency records.

DEFINITIONS

Community service providers: Non-criminal justice agencies or individuals based in the community who provide a professional service for offenders.

Conviction data: Information indicating that an individual pled guilty or nolo contendere to criminal charges or that the individual was convicted.

Criminal History Record Information (CHRI): Conviction or non-conviction data initiated or collected by a criminal justice agency on a person pertaining to a reportable event.

Electronic Medical Records System (EMR): Computerized system for medical, dental and mental health information pertaining to the inmate.

Dissemination: The release of information contained in KDOC files (paper or electronic) to individuals or agencies other than Department of Corrections personnel or its contractors. Confirming the existence or non-existence of a criminal history record for an outside agency constitutes dissemination.

Former Inmate: A person sentenced to the custody of the Secretary of Corrections who was previously assigned to a KDOC facility or contract facility but who has been lawfully released from incarceration. This

includes parolees, probationers, those released on conditional release and post incarceration supervision, and those discharged from a sentence.

Inmate: A person who has been sentenced to the custody of the Secretary of Corrections who is currently assigned to a KDOC facility, contract facility, or housed in another state pursuant to the Interstate Corrections Compact. This also includes persons from other jurisdictions who are housed in KDOC facilities pursuant to the Interstate Corrections Compact.

Non-conviction data: Information disclosing (1) law enforcement authorities have chosen not to refer a matter for prosecution; (2) a prosecutor has chosen not to commence criminal proceedings; (3) proceedings have been indefinitely postponed; (4) the dismissal or acquittal of a particular case or individual; and (5) an arrest record without a disposition if an interval of one year has elapsed from the date of arrest, no conviction has resulted, and no active prosecution of charges is pending.

Non-Criminal History Record Information (non CHRI): Any information contained in KDOC records, whether initiated by the KDOC or received by the KDOC from another source, about an inmate or former inmate that pertains to matters other than reportable CHRI events.

Records: Information concerning the offender's criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, detainers, personal property receipts, visitors lists, photographs, fingerprints, custody level, disciplinary infractions and actions taken, grievance reports, work assignments, program participation and miscellaneous correspondence. This information may be computerized and contained in the Management Information System, Total Offender Activity Documentation System, Electronic Medical Records System, hard copies, or imaged files of documents contained in various files within a facility, parole office and/or Central Office Records. The term also includes documents, in both electronic and hard copy format, which pertain to subject matter[s] other than specific offenders.

Reportable event: Those events listed in KSA 22-4705. The source of this information shall be the FBI record, except in known instances where pending actions have been documented by correspondence from other criminal justice agencies.

PROCEDURES

I. Administration of Criminal History Record Information (CHRI) System (ACI 3-4092, APPFS 3-3101)

- A. The responsibility for administering and monitoring the dissemination of CHRI in Kansas is vested in the Kansas Bureau of Investigation (KBI), which has been designated as the central repository for CHRI for the State of Kansas.
- B. KSA 22-4707 details restrictions on dissemination of CHRI. Kansas Administrative Regulations 10-9-1 through 10-15-1 of the KBI further specify the conditions under which CHRI may be disseminated.
- C. All departmental, divisional, and section/unit offices that regularly handle or disseminate CHRI information shall maintain a current copy of controlling statutes and regulations of the KBI pertaining to CHRI.

II. Dissemination of CHRI

- A. Responding to requests for CHRI
 - 1. Non-conviction data, including that which may be cited or referenced in various reports and documents maintained in KDOC records, may be released only to criminal justice agencies.
 - a. Dissemination of non-conviction CJIS data obtained through any KCJIS system is subject to the secondary dissemination policies of NCIC, CJIS, and KCJIS governance bodies.

- b. Any copies made of the CHRI record/abstract must be considered secondary dissemination requiring a log entry even if the copy remains within the agency. See Section VI. for more information on logging of dissemination.
- 2. CHRI conviction data may be released to any person, other than another inmate or former inmate. A signed release by the inmate or former inmate on whom such CHRI conviction data is released is not required.
- 3. Except as provided elsewhere in this IMPP, responses to requests for CHRI conviction data on an identifiable inmate shall be limited to:
 - a. Commitment data
 - (1) Name
 - (2) Physical description,
 - (3) Photograph
 - (4) Date of birth
 - b. Sentence data
 - (1) Offense
 - (2) Date of offense
 - (3) Number of counts upon which convicted
 - (4) County of conviction
 - (5) Case number
 - (6) Date of sentencing
 - (7) Term imposed
 - (8) Sentence structure
 - (a) Concurrent or consecutive
 - (b) Habitual criminal statute imposed/not imposed
 - (9) Sentence begins date
 - (10) Minimum sentence expiration date
 - (11) Maximum sentence expiration date
 - (12) Conditional release date
 - (13) Aggregate controlling sentence
 - c. Parole eligibility/supervised release date
 - (1) Earliest parole eligibility/supervised release date
 - (2) Current parole eligibility/supervised release date
 - d. Custody level

- e. Disciplinary record
- f. Location

(1) The location of an inmate housed in another state under the provisions of the Interstate Corrections Compact may, for security reasons, be limited to the fact the inmate is housed in another state.

- 4. Responses to requests for CHRI conviction data on identifiable former inmates shall be the same as those on current inmates except that:
 - a. The dates of admission to and release from KDOC custody and the type of release shall be provided instead of the parole eligibility date.
 - b. The level of supervision shall be provided.
 - c. The county of supervision shall always be provided.
 - (1) The street address shall be provided if the controlling offense was committed on or after 05/29/97.
- 5. A response to a request for CHRI shall be provided as soon as possible.
 - a. No request shall be returned, delayed or denied because of any technicality, unless it is impossible to determine the identity of the inmate or former inmate to whom the request pertains.
 - b. Only that information which is requested shall be provided.
 - c. In the event information is requested which cannot be released pursuant to this IMPP, the response shall include an explanation of the provisions of this IMPP that limit the release of information.

B. Non-requested dissemination

- 1. When it is considered to be in the public's best interest to do so, or, when such dissemination would assist law enforcement agencies in an investigation or the apprehension of an inmate or former inmate, the Departmental Public Information Officer, any warden or parole director may release CHRI conviction data.

III. Dissemination of Non-CHRI (ACO 2-1E-06)

- A. Non-CHRI may be released only after the inmate has signed a Consent for Release of Confidential Information form (Attachment A, Form #05-101-001). (ACO 2-1E-07, ACI 3-4096)
 - 1. A specific authorization is necessary for the release of medical, mental health, alcohol/substance abuse and sex offender treatment records and academic and vocational education records. (ACI 3-4377)
 - a. If the information is proposed for release **from** the KDOC or one of its designated contractors to a third party, the inmate must complete part A of Attachment A to this IMPP.
 - b. If the information is proposed for release from a third party **to** the KDOC or one of its designated contractors, the inmate must complete part B of Attachment A to this IMPP.
 - 2. A copy of the completed form shall be maintained in the inmate's Medical Master File. (ACO 2-1E-07, ACI 3-4096)

IV. Inmate and Former Inmate Access to Their Records (ACO 2-1E-06, ACI 3-4095)

- A. An inmate or former inmate shall have limited access to his/her own records as follows:
1. May receive a copy of conviction data from the FBI record in accordance with KAR 10-13-1 and 10-13-2.
 2. May schedule an appointment with a member of the clinical staff to discuss the contents of a medical record, clinical evaluation and/or treatment record prepared by a clinical staff member.
 - a. The inmate or former inmate shall not be furnished a copy.
- B. If the inmate or former inmate feels that the information request has been improperly denied, the inmate/former inmate may request a meeting with the facility warden (or designee) or parole director (or designee).

V. Documentation of Dissemination

- A. The dissemination of any CHRI shall be logged in the individual's file on the CHRI Dissemination Log, (Attachment B, Form #05-101-002).
- B. The Central Office, or facility providing the CHRI, shall attach or stamp the following notice to non-conviction data before it is disseminated:

**This information is restricted as to use and dissemination.
Civil and criminal penalties exist for misuse. See Kansas
Criminal History Plan. Kansas Department of Corrections.**

Date:_____ Released By:_____

Logged By:_____

1. The above notice is not required if information is furnished for the purpose of processing a charge through the criminal justice system and if it relates only to the charge currently in process.
- C. The signed Consent for Release of Confidential Information form (Attachment A), executed prior to the release of any information, shall serve as documentation of the dissemination of non-CHRI material.
1. A copy of the completed form shall be maintained in the inmate's Master File.
(ACO 2-1E-07, ACI 3-4096)

VII. Release of Attorney's and Diagnostic Reports

- A. Under no circumstances shall the contents of either the County/District Attorney's or Defense Attorney's report be released to inmates or former inmates.
- B. The diagnostic report prepared by the El Dorado Correctional Facility Reception and Diagnostic Unit (EDCF-RDU) for male offenders or, in the case of female offenders, Topeka Correctional Facility Reception and Diagnostic Unit (TCF-RDU) may be disclosed in accordance with KSA 75-5266 which permits dissemination to the sentencing court, the County/District Attorney, the attorney for the defendant or inmate, the Kansas Parole Board and its staff, the wardens and the Classification Committees of State correctional facilities, and other persons as designated by the Secretary.
1. The Wardens of the El Dorado Correctional Facility, the Topeka Correctional Facility, or the Secretary of Corrections or designee may provide the psychiatric evaluation reports at their discretion to the defendant or inmate, the members of the inmate's family or the inmate's friends or the superintendent, warden, or director of any other state institution.

2. Community Corrections agencies and State and Federal Court Service and Probation Officers have also been designated by the Secretary as appropriate recipients of the diagnostic report.
- C. The diagnostic report may be released to criminal justice agencies not specified above, only with the approval of the Secretary of Corrections or designee, Deputy Secretary of Corrections, Warden of EDCF or, in the case of reports concerning female offenders, the Warden of TCF.
- D. Community service providers desiring to receive either EDCF-RDU or TCF-RDU diagnostic reports shall be required to execute an agreement with the Department of Corrections which stipulates the conditions under which the report will be provided and used.
 1. The executed Agreement for Review of Diagnostic Reports form (Attachment C, Form 05-101-003) shall be retained in the Central Office by the Division of Facilities Management.
 2. At least once a month, a current listing of authorized users shall be supplied by the Division of Facilities Management to both Field and Institutional Parole Officers.
 3. The Agreement for Review of Diagnostic Reports shall be executed annually.
 4. In addition to this agreement, a properly executed Authorization to Release Diagnostic Reports form (Attachment D, Form 05-101-004) shall be submitted with each request.
- E. Whenever an EDCF-RDU or TCF-RDU diagnostic report is released to a non-criminal justice agency, the report shall be edited and all non-conviction data or references to such data shall be blackened out.

VIII. Security and Checking Out/Accessing Files (ACO 2-1E-01, 2-1E-08, ACI 3-4092, APPFS 3-3101)

- A. All inmate records shall be secured in accordance with KAR 10-11-1.
- B. No person shall check out or access files unless his/her name has been placed on a list of approved file users maintained by the Records Specialist, Parole Supervisors, or facility Chief Records Officer.
 1. The placement on and removal of names from this list shall be requested by memorandum through the staff member's supervisor.
 2. The Secretary of Corrections and Management Team members shall determine the names of those persons who shall have access to inmate records for their respective staffs.
 3. Wardens or their designees shall determine the names of those persons within their respective facilities who shall have access to inmate records.
 4. Parole Supervisors shall determine the names of those persons within their respective regions who shall have access to inmate records.
- C. All records removed from the Records Office shall be returned by the close of the working day.
 1. In those instances when records are removed from the Records Office and it would be impractical to return them each night, provisions shall be made to retain them at an alternate locked location.
- D. No inmate records shall be removed from the building or facility where normally housed without the prior approval of the Records Specialist or Chief Records Clerk.

IX. Uniform Fee Schedules for Record Research, Generation, and Copying

- A. Copies of records shall be provided, where appropriate and within statutory constraints, throughout the Department for fees that shall be fixed on a case by case basis, predicated

upon the actual salary and production costs incurred, and as related to the expertise involved in extracting and copying the records involved.

1. Fee structures are established as follows for both per-copy cost and for research of records.
 - a. Records searches requiring manipulation of data, authorship of applications to manipulate or retrieve data, or storage of data shall be charged out at a minimum of \$55.00 [fifty five dollars] for the first hour or any fraction thereof, and such additional salary costs as may be incurred for each additional hour or fraction thereof.
 - b. Record searches requiring data retrieval of printouts or scheduled listings of Departmental data shall be charged out at the rate of the actual salary costs involved in the retrieval of the data, plus a printing cost of \$0.25 [twenty five cents] per page.
 - c. Straight copies of documents requiring no retrieval costs or manipulation of data shall be charged out at a rate of \$0.25 [twenty five cents] per single sided page.
2. Fees related to copying and/or data retrieval costs may be paid by approved credit cards and cheques.
 - a. Cash will not be accepted under any circumstances.
 - b. Each Warden, Parole Director, and the Fiscal Officer in the Central Office shall develop procedures for the collection of such fees.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

KSA 22-4705, 22-4707, 45-219, 45-221, 75-712, 75-5221, 75-5266
KAR 10-0-1 through 10-15-1
IMPP 05-105
ACO 2-1E-01, 2-1E-06, 2-1E-07, 2-1E-08
ACI 3-4092, 3-4095, 3-4096, 3-4377
APPFS 3-3101

ATTACHMENTS

Attachment A - Consent for Release of Confidential Information, 42 pages
Attachment B - CHRI Dissemination Log, 1 page
Attachment C - Agreement for Review of Diagnostic Reports, 1 page
Attachment D - Authorization to Release Diagnostic Report, 1 page

Kansas Department of Corrections
Consent for Release of Confidential Information
Part A: From KDOC &/or Designated Contractors to Third Party

Subject Name _____

Date of Birth _____ Dept. of Corrections Number _____

This authorization allows and requests _____ to release information as designated below to:

Individual / Organization Name:

Individual / Organization Address:

The information indicated below is to be released for the purposes of assisting the above referenced individual or organization make determinations about the subject, an individual in the custody of the Secretary of Corrections.

- ☐ Substance Abuse Evaluation, Treatment, and/or other therapeutic intervention*
- ☐ Psychological or Psychiatric Evaluation, Treatment, and/or other therapeutic intervention
- ☐ Medical Diagnosis, Treatment, and Recommendation Information
- ☐ General Case Management Information/Impressions
- ☐ Employment Records
- ☐ Scholastic Records
- ☐ Military Records
- ☐ Law Enforcement Records
- ☐ RDU Evaluation
- ☐ Criminal History Information
- ☐ Urinalysis and Other Test Results
- ☐ Disciplinary Case Records
- ☐ Other

This authorization shall run concurrent with the subject's criminal sentence, which expires:

I understand that this authorization may be withdrawn at any time.

I release corrections officials and/or designated contractors from any liability for disclosing this information.

* I specifically waive the protections afforded to all records pertaining to substance abuse evaluations, treatments, or other therapeutic interventions as set forth at 42 U.S.C. 290a3 and 42 C.F.R., Part 2, with the exception of the prohibition on re-disclosure of that information without my express written consent.

Signature of Subject

Date

Signature of Parent, Guardian,
or Authorized Representative

Date

Witness

Date

PROHIBITION ON RE-DISCLOSURE: The information disclosed is from records whose confidentiality may be protected by State and Federal law. Further disclosure of this information is prohibited, except with the specific written consent of the person to whom it pertains. Violations may result in legal action and the imposition of a fine.

Kansas Department of Corrections
Consent for Release of Confidential Information
Part B: From Third Party to KDOC &/or Designated Contractors

Subject Name _____

Date of Birth _____ Dept. of Corrections Number _____

This authorization allows KDOC & designated contractors to request and obtain information as designated below from:

Individual / Organization Name:

Individual / Organization Address:

The information indicated below is to be released for the purposes of assisting the staff of the Department of Corrections or the designated contractor in making determinations about the subject.

- ☐ Substance Abuse Evaluation, Treatment, and/or other therapeutic intervention*
- ☐ Medical, Psychological or Psychiatric Evaluation, Treatment, and/or other therapeutic intervention
- ☐ Diagnosis, Treatment, and Recommendation Information
- ☐ General Case Management Information/Impressions
- ☐ Employment Records
- ☐ Scholastic Records
- ☐ Military Records
- ☐ Law Enforcement Records
- ☐ RDU Evaluation
- ☐ Criminal History Information
- ☐ Urinalysis and Other Test Results
- ☐ Disciplinary Case Records
- ☐ Other

This authorization shall run concurrent with the subjects criminal sentencing, which expires:

I understand that this authorization may be withdrawn at any time.

I release _____ from any liability for disclosing this information.

* I specifically waive the protections afforded to all records pertaining to substance abuse evaluations, treatments, or other therapeutic interventions as set forth at 42 U.S.C. 290a3 and 42 C.F.R., Part 2, with the exception of the prohibition on re-disclosure of that information without my express written consent.

Signature of Subject

Date

Signature of Parent, Guardian,
or Authorized Representative

Date

Witness

Date

PROHIBITION ON RE-DISCLOSURE: The information disclosed is from records whose confidentiality may be protected by State and Federal law. Further disclosure of this information is prohibited, except with the specific written consent of the person to whom it pertains. Violations may result in legal action against you and the imposition of a fine.

CHRI DISSEMINATION LOG

NAME OF OFFENDER:		NUMBER:			
DATE INFORMATION PROVIDED	INDIV. OR AGENCY REQUESTING INFO.	INFORMATION PROVIDED	METHOD OF REQUEST	METHOD OF RELEASE	PERSON PROVIDING INFORMATION

AGREEMENT FOR REVIEW OF DIAGNOSTIC REPORTS

Pursuant to KSA 75-5266, the Secretary of Corrections may authorize certain persons to have access to inmate diagnostic reports prepared at either the El Dorado Correctional Facility RDU or Topeka Correctional Facility-RDU. The Department of Corrections has determined that agencies providing treatment programs, residential placement, community services, and/or public assistance agencies providing benefits and/or services to parolees or other selected felony offenders should have access to certain evaluation reports. Therefore, the Secretary of Corrections hereby grants release of the Diagnostic Report to _____, for the purposes stated herein, subject to the following conditions.

(Name of Agency)

1. The agency agrees to maintain confidentiality of the reports.
2. The agency agrees to make no disclosure of the reports or the contents thereof to any other agency, entity, or person except as provided by 38 USC 7332 and 38 USC 5701.
3. The agency agrees to restrict access to the reports to its employees who have been authorized to have such access.
4. The agency agrees to use the diagnostic report only for the purpose of assessing the offender's eligibility for placement in the program and/or for providing the offender with treatment services, community services, and/or benefits and/or services provided by public assistance agencies.

Subject to the terms set forth herein, the Secretary of Corrections authorizes the agency to receive the diagnostic reports and the agency agrees to utilize the reports for the purposes stated herein, in accordance with the conditions set forth.

Name and Title of Agency Representative

Authorized by Secretary of Corrections

Date: _____

Signature

Date: _____

AUTHORIZATION TO RELEASE DIAGNOSTIC REPORT

I hereby authorize the Kansas Department of Corrections (KDOC) to release the evaluation report prepared at a Reception and Diagnostic Unit operated by the KDOC, to _____, so
(Name of Agency)
that the report may be reviewed with respect to my being accepted for placement in the program, and or for application for benefits or services from community services providers operated by
_____.
(Name of Agency)

I understand that pursuant to KSA 75-5266, persons authorized by the Secretary of Corrections may have access to the diagnostic report. I expressly consent to the Secretary granting access to the evaluation report to _____ for the purpose of considering my
(Name of Agency)
placement in the program the agency operates and/or providing treatment services to me, and/or for application for community services, and/or public assistance agencies providing benefits and/or services for the offender. I release and agree to hold harmless the State of Kansas, Kansas Department of Corrections, and their officers and employees, from any and all liability regarding the release of the diagnostic report for the purposes stated herein.

Print Inmate Name and DOC Number

Signature of Inmate

Date

(Note: Use two (2) witnesses or an acknowledgment by a notary public.)

Print Name of Witness

Print Name of Witness

Witness Signature

Witness Signature

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____ day of _____, 20____.